

Update: Juvenile Justice Benchbook

CHAPTER 24

“Traditional” Waiver of Family Division Jurisdiction

24.20 Procedures by Court When Waiver Is Ordered

Insert the following text on the bottom of page 24-9:

In *Spytma v Howes*, ___ F3d ___ (CA 6, 2002), the United States Court of Appeals for the Sixth Circuit determined whether due process requires a judge to make specific findings on the record regarding all of the criteria for waiving jurisdiction over a juvenile. Spytma was fifteen years old in 1974 when he was charged with first-degree murder. In waiving jurisdiction over Spytma, the lower court made specific findings regarding some but not all of the applicable waiver criteria. The federal Court of Appeals stated:

“[O]ur concern today is whether petitioner received due process as required by *Kent* [*v United States*, 383 US 541 (1966)], not whether the state court meticulously complied with Juvenile Rule 11.1. We find that minimum due process requirements were met. Petitioner was represented by counsel and a hearing was held on the record. Whether the Michigan court’s waiver of jurisdiction and transfer to adult court contain sufficient indicia under state law is a question for the Michigan courts, which have held that it was valid. Accordingly, despite the lack of specific findings on the record concerning the listed criteria, we cannot say that the judge did not consider all the criteria before making his decision or that the hearing did not comport with minimum due process.” *Spytma, supra* at ____.

The Court also indicated that despite the lack of a reviewable record, any error was harmless because any “reasonable” probate judge would have transferred the juvenile to adult court.

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